

Questions from Anne Henshaw, Chair of the CPRE.

Councillor Bridget Wayman – Cabinet member for Highways, Transport and Waste

RE: Everleigh Household Recycling Centre

At a meeting of the Pewsey Area Board held on 8th January 2018, Wiltshire Council provided an update in respect of the Everleigh HRC, which is known to be under scrutiny currently by the Environment Agency because of drainage problems. The update highlighted various issues as follows:

a). Concerns expressed by the Council's new contractors, FCC Environment, who became responsible for the site on 2nd October 2017, that previous operation of the site did not conform with Environmental Regulations.

b). As of 6th October 2017, local residents have been banned from recycling an extensive range of otherwise normally recyclable materials to the site. They have been directed to place these materials in the container for household waste.

Please see below for details of the materials which cannot currently be deposited separately at Everleigh HRC.

Non Landfilled Material	Alternative recycling options	Can material be placed in non-recyclable waste bin at Everleigh if brought onto site?
Cardboard	Kerbside collection service, other local household recycling centres	Yes
Food and Drinks Cartons	Local household recycling centres	Yes
Rigid Plastics (including bottles, pots, tubs and trays and hard household plastics)	Local household recycling centres, plastic bottles in kerbside collection service	Yes
Car Batteries	Local household recycling centres, scrap merchants	No – Hazardous waste cannot be sent to landfill
Domestic Batteries	Local household recycling centres, supermarkets and shops	No – Hazardous waste cannot be sent to landfill
Engine Oil	Local household recycling centres, car garages	No – Hazardous waste cannot be sent to landfill
Tyres	Local household recycling centres, car garages	No – Tyres cannot be sent to landfill
Low Energy Light Bulbs	Local household recycling centres, some supermarkets	No – Electrical items cannot be sent to landfill
Household chemicals (oil based paints, cleaning chemicals, household pesticides)	Local household recycling centres	No – Hazardous waste cannot be sent to landfill

c). FCC Environment's further concerns relating to the condition of the sealed drainage tank, and potential leakage therefrom, could appear to be justified in the light of the Council's admission that the "concrete retaining walls are heavily cracked and a significant amount of corroded reinforcement bar is visible." Prima facie, this admission might be regarded as displaying negligence on the part of the Council, and/ or the previous Operator, due to failure to properly inspect and maintain the site. Such defects normally occur only over a considerable period of time, and concrete degradation in such circumstances is a common and widely known problem.

d) The Council's update refers to estimated costs to rectify matters being established, prior to a submission to Cabinet to decide on priorities for capital investment. Information obtained informally by CPRE indicates that the sum involved to rectify the situation at Everleigh would be in the region of £80,000.

Question

1. Why was the fitness for purpose of the Everleigh site evidently not monitored properly over what is likely to have been a considerable period of time and timely work, maintenance and repairs not carried out?

Answer

The fitness for purpose of Everleigh and other sites has been monitored and work, maintenance and repairs carried out where needed. Historically, the maintenance focus has been on the operational function of the site. To that end inspections have taken place of fencing, gates, condition of the access road, containers, compaction plant and signs. There has been no inspection of the drainage system or the retaining wall, both of which now require significant repair. The retaining wall is not normally visible as containers are placed immediately in front of it. The contract was signed in 2003 and was more generic in nature than new contracts would be. The regime for monitoring and the obligation for carrying out maintenance and repairs would be more explicitly defined in the new contracts.

The Environment Agency have made visits to the site checking for compliance with the waste management licence for the facility throughout the contract period.

Question

2. In order to establish who was ultimately responsible for this failure to act, what statutory, or other legal obligations applied to

- a) Wiltshire Council, as the Owner of the site
And
- b) Hills Waste Management as the previous Operator thereof, and what, if any, were the provisions written into the contract between the Owner and the previous Operator with regard to responsibility for inspection, maintenance and repairs?

Answer

- a) As the owner of the site Wiltshire Council has responsibility, with its contractor, to ensure that the site was safe for use by the staff employed by the contractor at the site and for residents to access and use the site. The council has carried out visits to ensure that the council's contractor was complying with statutory consents, the waste management licence and planning permission for the site. The contract between the council and its contractor places obligations on the contractor to ensure that its operations comply with these requirements.
- b) The council's contractor has obligations as the operator of the site to comply with the planning permission and, as holder of the waste management licence, the waste management licence for the site. The contract required the council's contractor to maintain and make available for use by the public and operate the household recycling centres throughout the contract period. The contractor was obliged to ensure that during the contract period it was licensed by the Environment Agency to manage the household recycling centres. In more general terms there was an obligation under the contract for the contractor, at all times in providing the service, to comply with all legal duties imposed upon it whether arising by way of statute, environmental law or common law including any provision in any site licence or planning permission or conveyance lease or licence relating to a site or any requirement of a statutory government body. Given the generic nature of the obligation for the council's contractor to maintain and make available the household recycling centre it would be difficult to argue that they should have been responsible for inspecting and maintaining the drainage system and the retaining wall. These problems have arisen with the passage of time and are not due to the nature of the operation of the site. The drainage which had not been installed was not identified by the council, the council's previous contractor or the Environment Agency. Now that it has been identified by the council's new contractor it is for the council to decide whether or not to install the drainage required to return the site to previous operating levels.

Question

3. Will Cabinet confirm that any necessary expenditure to rectify the situation will be funded by the Council and made available forthwith to restore this site to full function pending resolution of who may be legally liable and to what extent for the cost of rectification? Similarly, will Cabinet also confirm that it will fund any associated clean-up costs at the site should these be required?

Answer

Cabinet will consider the level of investment required before making a decision on whether to fund the expenditure required to rectify the problems which have been identified at Everleigh.

Question

4. Can Cabinet confirm that a full and proper inspection has been made of all the other Council owned waste recycling sites, and that the Council, and FCC

Environment, as the new incoming Operator, are fully satisfied that no similar (or different) problems exist at any of these sites, that would impede full operation in accordance with all existing regulations?

Answer

Inspections have been carried out and reports prepared on the condition of each of the sites. The only outstanding issue identified as a result of these inspections and reports is a smaller scale drainage issue at Churchfields household recycling centre, Salisbury and a plan is being drawn up to rectify this.

Question

5. Local residents are well aware that it has long been the Council's wish to close the Everleigh site down on the grounds of expense and usage, without, however, seemingly ever appreciating its value and importance to a very rural community. Will Cabinet provide an undertaking that Everleigh will NOT be closed down either because of its present problems, or for any associated drop in usage, given that these difficulties, prima facie, would seem to have been due to a serious lack of competence on the part of the Council, as the Owner of the site, and/or Hills Waste Management as the previous Operator?

Answer

Cabinet will not provide an undertaking that Everleigh will not be closed down. Cabinet will consider the level of investment required before making a decision on whether to fund the expenditure required to rectify the problems which have been identified at Everleigh.